

REMARKS

By this Amendment, Applicant adds claim 18. Accordingly, claims 1-18 are pending in this application, claims 4-17 are withdrawn from consideration. Applicant respectfully submits that new claim 18 reads on Applicant's elected Species I and is generic to all species identified in the October 5, 2004 Election of Species Requirement.

Applicant appreciates the courtesies shown to Applicant's representative by Examiner Ho in the January 14 and February 4 telephone interviews. Applicant incorporates a separate record of the substance of the interviews into the following remarks.

The Advisory Action maintains the rejection of claims 1-3 under 35 U.S.C. §103(a) over U.S. Patent 5,841,126 to Fossum et al. (hereinafter "Fossum"). Applicant respectfully traverses the rejection.

Fossum does not disclose, teach, or suggest "the electronic signal provided by the sensor and controlled by the controller so that the electronic signal is either stored in a first capacitor, or is stored in a second capacitor," as recited in claim 1. The Office Action alleges that the electronic signal of Fossum may be stored in either a first capacitor 114 or a second capacitor 118. However, as discussed during the December 13, 2004 personal interview, according to Fossum the signal charge is only stored in capacitor 118 (col. 3, lines 13-21). Capacitor 114 stores a separate electronic signal representing background noise (col. 3, lines 5-12). Thus, "the signal that represents an image" is only stored in a single capacitor and there is no ability to store it in a second capacitor. Such is the case if the signal charge of Fossum is considered equivalent to Applicant's claimed signal because the signal charge may only be stored in capacitor 118 in Fossum (col. 3, lines 13-21). Similarly, if the initial baseline charge of Fossum is considered equivalent to Applicant's claimed signal, the initial baseline charge may only be stored in capacitor 114 in Fossum (col. 3, lines 5-12).

Fossum does not disclose the possibility of storing either of the initial baseline charge or signal charge in a second capacitor. Accordingly, Fossum does not disclose, teach, or suggest "the electronic signal provided by the sensor and controlled by the controller so that the electronic signal is either stored in a first capacitor, or is stored in a second capacitor," as recited in claim 1. Thus, claim 1 is patentable over Fossum.

The Advisory Action alleges that regardless of the purpose of the capacitors 114, 118 in Fossum, the device of Fossum is still structurally capable of storing the signal charge in either a first capacitor or a second capacitor. Applicant respectfully traverses this assertion.

As discussed during the telephone interview, Fossum does not disclose a controller wherein "the electronic signal provided by the sensor and controlled by the controller so that the electronic signal is either stored in a first capacitor, or is stored in a second capacitor," as recited in claim 1. As discussed above, according to Fossum the signal charge is only stored in capacitor 118 (col. 3, lines 13-21). Capacitor 114 stores a separate electronic signal representing background noise (col. 3, lines 5-12). Thus, "the signal that represents an image" is only stored in a single capacitor and there is no ability to store it in a second capacitor.

The location in which the charge is stored in Fossum is controlled by controller 302 (col. 4, lines 28-30). Controller 302 of Fossum is only disclosed as capable of storing the signal charge in capacitor 118 and the background noise in capacitor 114. Applicant notes that it is well known in the technical arts and patent practice that the recited capabilities of a controller characterize the structure of that controller¹. Accordingly, Fossum cannot

¹ For example, if the capabilities of a recited controller did not characterize the controller's structure, all controllers would have to be considered the same for the purpose of patentability. Thus, a controller in an engine of an automobile would have to be considered the same as a controller in a calculator if the functionality of those controllers did not characterize their structure.

reasonably be considered to disclose a controller (structural element) that controls the electronic signal to be either stored in a first capacitor, or is stored in a second capacitor, as recited in claim 1.

Further, Applicant respectfully submits that claims 2 and 3 are patentable for at least the reason that claim 1 is patentable, as well as for the additional features they recite. Applicant respectfully requests withdrawal of the rejection.

By this Amendment, Applicant adds claim 18. Claim 18 recites all of the features of claim 1. However, claim 18 even more explicitly recites the capabilities of the controller and thus the structure of the recited controller. Thus, claim 18 is patentable for at least the reasons that claim 1 is patentable.

Finally, because claims 1 and 18 are generic to all species identified in the October 5, 2004 Election of Species requirement, Applicant respectfully requests that withdrawn claims 4-17 be rejoined and allowed in accordance with MPEP §809.02(c)(B)(1).

In view of at least the foregoing, Applicant respectfully submits that this application is in condition for allowance. Applicant earnestly solicits favorable reconsideration and prompt allowance of claims 1-18.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, Applicant invites the Examiner to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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JAO:JOC/tea

Attachments:

Request for Continued Examination
Amendment Transmittal

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